Supreme Court, U.S.
FILED

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In The

SUPREME COURT OF THE UNITED STATES

October Term, 1999

In re: CHRISTOPHER R. WOJCIECHOWSKI

PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS & PROHIBITION

TO BE ISSUED TO THE U. S. DISTRICT COURT, N. D. OF CALIFORNIA, SAN JOSE DIVISION, HON. RONALD M. WHYTE; TO; NINTH CIRCUIT COURT OF APPEALS, HON. ROBERT R.BEEZER, HON. DIARMUID F. O'SCANNLAIN, HON. SIDNEY R. THOMAS & TO; U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA, HON. ERITHE A. SMITH

IN, RICO, CASE NO. CV 98-21139; 9TH.CIR. DOCKET # 00-15135& RELATED CIVIL RIGHTS, CASE CV 99-21236, 9TH. CIR. DOCKET # 00-7003#4 & BANKRUPTCCY CASE NO. LA 89-27014 ES

RESPONDENTS

U.S. DISTRICT CRT.
280 S. FIRST STREET
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57 pp

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QUESTIONS:

1. Should a U.S. District Court, be allowed to constantly aid and abet the abdidgment and deprivation of Petitioner's Constitutional rights to due process and a jury trial, in a RICO case and a related Civil Rights case, because he has chosen self representation?

2. Should the Ninth Circuit Court of Appeals, be allowed to constantly deny all Appeals and Petitions, for relief as is needed, from the above court, without considering the merits and applicable law ?

3. At the same time during this maligned due process to Petitioners recovery, should a 10 year old bankruptcy, where the Estate of the Debtor has been identified as the Racketeering Enterprise,[1/] be allowed yet another maliciously premeditated obstruction of justice to further abridge Petitioners Civil Rights to due process ?

4. Should Petitioner be granted relief to proceed to a jury trial, unfettered by such obstructions of justice caused by attorneys, who for strictly their own [2/] benefit are continuing to misuse three federal Courts, to avoid responsibility and the day of reckoning?

1/ See Handeeme v. Lemaire, 112 F.3d 1339 (8th. Cir. 1997).

2/ These attorneys are proceeding as defendants, representing themselves only. All previousdefendants/clients of these attorneys have now fired them. from representing them in both the RICO & the CIVIL RIGHTS actions.

REAL PARTIES IN INTEREST:

TRUSTEES OF THE LILLIAN B. DISNEY TRUST :
SHELLY B THOMPSON, CO -TRUSTEE;
U.S. TRUST CO., CO -TRUSTEE;
ROBERT L. WILSON, CO -TRUSTEE;

EXECUTORS OF THE WILL OF LILLIAN B. DISNEY :
ROBERT L. WILSON, CO - EXECUTOR;
U.S. TRUST CO., CO - EXECUTOR;
Represented by: Carol Johnson, Jeff Hegedus
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DIANE DISNEY MILLER IN HER INDIVIDUAL CAPACITY;
DIANE DISNEY MILLER IN HER CAPACITY AS CHAIRPERSON
OF THE WALT DISNEY CONCERT HALLS NO.1 & NO. 2
DIANE DISNEY MILLER IN HER CAPACITY AS CO-EXECUTOR
OF THE ESTATE OF SHARON D. LUND
U.S. TRUST CO. IN IT'S INDIVIDUAL CAPACITY
U.S. TRUST CO. IN IT'S CAPACITY AS CO-EXECUTOR OF
THE ESTATE OF SHARON D. LUND
RONALD E. GOTHER CO - EXECUTOR OF
THE ESTATE OF SHARON D. LUND:
HARRY HUFFORD;
JOHN C. WESTWATER;
RETLAW ENTERPRISES, INC.
CANYON OAKS ESTATES, L.P;
TOPANGA OAKS, INC.;
ROBERT L. WILSON IN HIS INDIVIDUAL CAPACITY;
WALT DISNEY CONCERT HALL NO. 1
WALT DISNEY CONCERT HALL NO. 2
THE TRUSTEES OF THE LUND FAMILY TRUST (CIVIL RIGHTS ACTION)

Represented by: Arthur B. Cook, Esq.

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RONALD E. GOTHER, IN HIS INDIVIDUAL CAPACITY;
JANE LINDSAY WINGFIELD;
BENNETT L. SILVERMAN;
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LAUREL BALLARD;
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HARRY J. KIM;
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Represented by; Robert B. Parsons, Esq.
Finer Kim & Steams
3424 Carson Street, Suite 500,
Torrance, CA 90503
Tel: 310 214 1477

LOS ANGELES COUNTY
EDMUND D. EDELMAN; &
LARRY J. MONTEILH
THE COUNTY OF LOS ANGELES;
JOHN P. SHOOK;

Represented by: Adrienne M. Byers,
Deputy County Counsel, County of Los Angeles,
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500 W. Temple St. Los Angeles, CA 90012
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(1987) ISBN 0-316-31595, pg. 251 10

JURISDICTIONAL STATEMENT:

All federal courts are, and the Supreme Court is, empowered by Title 28 USC Sect. 1651(a) to " issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principals of law."

Petitioner/Plaintiff Pro Se, realizes that application of Rule 20 is a matter of *discretion sparingly exercised*. However, this matter involves a wholesale, extraordinary, malicious and prejudicial series of actions by three federal Courts, in tandem, choking off access to any other court except the Supreme Court, all of which impact the disciplinary jurisdiction of the Supreme Court. Mandamus and Prohibition is sought thereby to aid in the Court's appellate jurisdiction. Petitioner has no where else to go, all courts below have been foreclosed to relief.

The lower Courts were apparently fascinated with the idea the Supreme Court would affirm the Ninth Circuits Mandate in cases 98-1924 & 98-1955, quashing Petitioners right to recover under RICO. For good reason the Supreme Court, chose to instead deny certiorari, leaving the door open for Petitioner to go forward with the RICO case which was filed on 11-16-98. The Supreme Court was keenly aware of the existance of that RICO Action. The issues presented here turn on the First Amendment rights of Petitioner.

Mandamus & Prohibition is sought against all three Courts, by reason of the fact that all of them are acting in tandem maliciously abridging Petitioners *"right to freedom of speech"*, and his right *"to petition the government for redress of grievances."* Petitioner has the absolute right to proceed with the RICO Action and a follow up Civil Rights Action, based on new evidence recently discovered involving a de-facto admitted bribery which caused bankruptcy fraud, in turn resulting in a deprivation of due process rights to recovery of Petitioner's *significant property*, in a biased tribunal, in the *First Instance*.

Such actions are not precluded by any *res judicata* or collateral estoppel doctrine emanating from the mandate of the

9th Circuit Court, which Supreme Court decided not to affirm.

Ever since then these lower courts, have been literally defiant of the above fact and are attempting to usurp the Supreme Court's power by acting as if they have the capacity to affirm that mandate, themselves. Of course, they know they cannot, so they attempt bias, apparently the next best thing, by dismissing and denying everything Petitioner files.

Indeed, the Court has indicated that mandamus is the only proper remedy available to a party who has prevailed in the Supreme Court. Petitioner believes he has done that. Without objection, the two cases mentioned above have been put to rest. RICO and CIVIL RIGHTS actions are certainly not precluded by denial of certiorari, when newly discovered bribery and resulting bankruptcy fraud gave rise to the Civil Rights Action, and confirmed Petitioner's allegations in the RICO Action to be true, to that extent. This was accomplished without one iota of further discovery. All it took was the de-facto admission of County Counsel, that bribery indeed took place.

Lower Courts have no jurisdiction to limit Petitioner's Civil Rights Action, which are mandated to be heard by a jury. In this case the Bankruptcy Court is attempting to do just that, so is the District Court, followed by the Ninth Circuit Court of Appeals. Writs of mandamus and prohibition are properly used to correct jurisdictional error. 1/ This Petition brings before this Court an extraordinary situation ripe for such correction.

Extraordinary remedies are needed when such an extraordinary wholesale denial of Constitutional rights, by three federal courts, becomes evident. Especially when self representation is the basis of discrimination in all three Courts. It is clearly evident that discrimination against Petitioner is at the core of this wholesale deprivation of due process. Petitioner is acting under the California Doctrine of a self appointed Private Attorney General, because no attorney would oppose

1 / **Kerr v. U.S. District Court, 426 U.S. 394 (1976); also, Roach v. Evaporated Milk Ass'n., 319 U.S. 21, 26 (1943)**

the two behemoth California based firms of: Gibson Dunn & Crutcher and Latham & Watkins. [2] /

The situation calls for Supreme Court action as there are no guidelines, laws or rules in effect protecting the rights of individuals who, have to seek self representation in Civil Rights cases. It is just not enough to say to a Pro Se litigant; "*you have to follow the rules same as lawyers.*" Petitioner has followed the rules. But, bias and prejudice, in the fraternity of lawyers which obviously includes all judges, is relentlessly unleashed as overt discrimination against anyone who walks into a courtroom as a pro se litigant.[3/] Such acts are prohibited by the Civil Rights Act of 1968, as amended Title 42 Sect. 1983 et. seq.

The fact that "Anti-Trust" characteristics are now replete within irreconcilable conflicts of interest among consolidating law firms, is a fact which permeates the practice of law throughout the United States. It's a relatively new phenomenon, just like the internet is new. Taken to the maximum, that condition will stifle the availability of un-conflicted representation, to the extent we know it and that will breed mountains of litigation. Now among other things, behemoth law firms exacerbate discrimination against self representation. "*Only big boys get to play on this field*", is the prevailing discriminatory outcry. Football, for those who espouse such practice, is not to be mixed up with the Constitution. As a mater of fact, the playing field where the Constitution is defended, slants the other way, toward the little guy, not Goliath law firms.

However human nature being what it is, "Goliath" plays havoc and destroys due process guaranteed under the First Amendment, to a class of people who represent themselves. That is a violation of Civil Right Act, and intended fairness crafted by Congress to protect every person equally, under the

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2/ **Pulliam v. Allen, 466 U.S. 522(1984)**

3 / **See Petitioner's request for reconsideration of Cases 98-1924 & 98-1955 filed with the Supreme Court.**

laws of the United States. The Reserve power, preserved by the 'all-writs' section, 28 USC Sect. 1651(a), is available just for a case like this.[4/] *"This rarely used writ has been used to bring before the Court for review, in exceptional circumstances, otherwise non appealable orders."* [5/]

In addition, Petitioner believes that the failure of the inferior Courts to take jurisdiction over the de-facto admitted bribery requires that the Supreme Court immediately step into it's shoes in order to preserve available assets. RICO Action [6/] makes demand for damages in excess of $450,000,000 plus *significant property*, valued at the time it was stolen, in the amount of $110,000,000. The current value of that property is believed to be in excess of $300,000,000. These extraordinary circumstances require that, under Title 18 USC Sect. 1963 (d)(1) the Supreme Court order, the United States to; impose the requirement of a satisfactory performance bond, or take other action to preserve the availability of the property and money on Deposit in Banks or in trusts, for potential forfeiture. Under 1963(d)(1)(B) (ii) the Supreme Court must preserve the availability of the monies and the property through the entry of such an Order, "*which outweighs the hardship on any party against whom the order is to be entered.*" Property ownership and the and identity of trustors and trustees holding money to be set aside, is unknown to Petitioner. Petitioner, by Declaration under penalty of perjury, has requested; that counsel for responsible Defendants produce, under the requirements of the Freedom Of Information Act, such information which was filed with Governmental Agencies by

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4/ B. Boskey, 1A West's Federal Forms (Sup. Crt.) 166-68 (4th. ed. 1992).

5/ United States Alkali Association v. United States, 325 U.S. 196 (1945); De Beers Consol. Mines, Ltd. v. United States, 325 U.S. 212 (1945); In re 620 Church St. Corp., 299 U.S. 24,26 91936);

6 / See Vol. II Petition for Rehearing Case's 98-1924 &98-1955 filed 10-29-99.

each of the Defendants. That request was made for the first time on 11-29-99, it was was rejected in writing. Again, that request was made for the second time on 12-20-99, that request was again rejected. For the third time that request was made again on 02-01-2000, and it was rejected again in writing.

Therefore all bank accounts and investment accounts of the following parties must be attached as soon as possible, addresses of counsel representing the Defendants listed below are shown on pages ii- iv, above:

Diane Disney Miller, Napa & San Francisco, Calif.
Walt Disney Concert Hall No. 1, Los Angeles, Calif.
Walt Disney Concert Hall No. 2, Los Angeles, Calif.
U.S. Trust Co., New York, NY & Los Angeles, Calif.
Retlaw Enterprises Inc. Los Angeles, Calif.
The Estate of Lillian B. Disney, Los Angeles, Calif.
The Estate of Sharon D. Lund, Los Angeles, Calif.
The Lund Family Trust, Branson Mo. & L.A. Calif.
Gibson Dunn & Crutcher, New York, NY & L.A. Calif.
Jane Lindsay Wingfield, Santa Monica, Calif.
Ronald E. Gother, Los Angeles, Calif.
Robert L. Wilson, Los Angeles, Calif.
Harry J. Kim, Torrance and Los Angeles, Calif.
Finer, Kim & Stearns, Torrance and L.A. Calif.
Edmund D. Edelman, Calabasas & Beverly Hills, Calif.
County of Los Angeles, Los Angeles, Calif.

The Court has reiterated that writs "*are drastic and extraordinary remedies*" to be "*reserved for really extraordinary causes in which appeal is a clearly inadequate remedy.*" Ex parte Fahey, 322 U.S. 258, 259,260 (1947). The District Judge and the Bankruptcy Judge have made themselves litigants, by their actions, they must be restricted, unfortunately. But that is necessary to avoid piecemeal litigation in already overcrowded Courts in the Ninth Circuit.7/

7/ **Kerr v. U.S. District Court, 426 U.S. 394, 402-03 (1976)**

Petitioner believes he shows, that there is *"no other adequate means to attain the relief he desires"* and he satisfies the burden of demonstrating the right to issuance of the writ is *"clear and indisputable."* [8] /

Lastly, jurisdiction is available at the Supreme Court to attorneys representing clients and it must be equally made available to Petitioner Pro Se, by reason of the fact, the Court has stated *"the right to grant mandamus to require jury trial where it has been improperly denied is settled."* [9] /

STATEMENT OF THE CASE:

This Extraordinary Writ is sought in the interest of preserving Petitioner's Civil Rights to due process and his Constitutional rights to a jury trial , so far denied by a pattern of malfeasance by attorneys in three federal courts, which caused a 10 year obstruction of justice in Petitioners'/Plaintiff's due process rights and ability to recover *significant property* and monies taken from him. Petitioner has been denied documents required to be produced under the Freedom of Information Act, in order to assist him, in proving the allegations in his RICO and Civil Rights Cases.

Jury trial has been denied Petitioner twice by the Judge in the District Court and will be denied Petitioner by the Bankruptcy Judge in the event the 9th Cir. Crt. Three Judge Panel Opinion re the TRO is taken by the Bankruptcy Judge as a "ticket to abridge" Petitioner's Civil Rights to due process, even further. A contemplated illegal "bill of attainder" is at the heart of what this Bankruptcy Judge intends.

(1). A U.S. District Court Judge usurped the power of a jury and dismissed a RICO case without cause, not on the merits. Then a few days after a Civil Rights Action was filed, the same Court again usurped the power of a jury and attempted to act as

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8 / **Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 288-90(1988)**

9 / **Beacon Theaters v. Westover, 359 U.S. 500, 511 (1959)**

counsel for Defendants by faxing Petitioner it's own unfounded reasons to dismiss that case. The Court did this before the Complaint was served and before responsive pleadings were made by Defendants. That fact is a Defendant's dream come true, *"With a judge like that who needs lawyers?"*

(2). A three Judge Panel at the Ninth Circuit Court of Appeals, two days later, denied a Writ of Mandamus & Prohibition made against a Duty Judge who, instead of signing a requested TRO, decided to *"poison the well"* for Petitioner in the proceedings in Bankruptcy Court. His rewritten order was made in less than 30 minutes, encompassing 10 years of Bankruptcy Fraud. It was impossible for any reasonable adult to reach his conclusion unless that person had been prejudiced against Petitioner. The Appellate Panel failed to grant Mandamus and Prohibition without considering the merits or the law.

(3). A Bankruptcy Court Judge is considering designating Petitioner vexatious, at the request of the coconspirators in RICO, who have managed and controlled the Racketeering Enterprise for more than 10 years. That Racketeering entity is identified as the Estate of the Debtor Partnership, in the very case over which this Judge is presiding.

HISTORICAL BACKGROUND:

Any reasonable adult reading the findings in the Orders of the U.S. District Court Judge and examining the record will come to the conclusion that the U.S. District Court Judge is prejudiced and mentally disabled, and must be disqualified by reason of the fact that, he; *" has engaged in conduct prejudicial to the effective and expeditious administration of the business of the court and he is unable to discharge all of his duties of office by reason of mental disability."* **10/**

When the case was filed, docket entry #2 shows that is was assigned to Judge Jeremy Fogel, who immediately entered a Case Management Conference on 2-22-99. Judge Whyte

10 / See USC Sect. 372(c)(1) & "Exhibit A" Complaint to Judicial Council for the 9th. Cir., in Appendix , accompanied by Order

grabbed the case away from Judge Fogel on 11-24-98, according to docket #3. It wasn't until 12-3-98 that the assignment committee reassigned the case to Judge Whyte, because of the related case No. CV 96-21018, docket #5. Soon after, on 12-15-98, docket #6 Petitioner/Plaintiff requested a new Case Management Conference in an Expedited Motion, which was summarily denied, almost immediately on 12-18-98. That was the beginning of bias and prejudice against Petitioner/Plaintiff by Judge Whyte, for no cause whatsoever except because Judge Whyte was manipulated by and partial to Gibson Dunn & Crutcher attorneys, who within ten days thereafter (docket #8), noticed the motion to dismiss the Complaint filing docket #9, 10 & 11. On the same day and subsequently, a flood of filings controlled by Gibson Dunn & Crutcher took place, docket #'s 12 through 25. There are 29 additional errors previously committed, shown in satisfaction of the "Bauman Factors", to the Ninth Cir. Crt. of Appeals. All such errors were ignored in the panels prejudiced decision.

The Ninth Circuit Court of Appeals has so far denied all of Petitioners, Appeals and Petitions, without considering the merits. Constituting aiding the malfeasance in due process, which has been maligned into a dysfunctional, Circuit wide gridlock, in violation of Petitioners Civil Rights. [11]/ Contrary to the three judge panel opinion, all five "Bauman Factors" have been met to grant Mandamus & Prohibition for TRO.. Obviously, the Panel just did not read the 28 page Petition nor the Declaration of Petitioner in support thereof with Exhibits "K" through "R" attached thereto. In so doing, the Court of Appeals denied Petitioner his rights to due process and seriously affected the negative likelihood of an unfounded vexatious designation. The truth of the matter is the Ninth Circuit, did not want to entertain anything filed by a Pro Se Litigant. It's like the old days, "Black folks cannot eat here".

The Bankruptcy Court, has been illegally manipulated

11 / See 01-24-2000 Order of U.S. C.A. for 9th Cir. "Exhibit B", in Appendix , accompanied by Order of Duty Judge.

for 10 years, where the Estate of the Debtor has been the Racketeering Enterprise identified in the RICO Action. Since that Action was filed the coconspirator attorneys who manage and control the Racketeering Enterprise have requested several judges to declare Petitioner "vexatious". All judges, except the Hon. Erithe A. Smith, have declined. Judge Smith is proceeding, unfettered, to further exacerbate Petitioner's guaranteed rights to due process over valid objections from Petitioner. Judge Smith is way beyond her jurisdiction in the process of abridging Petitioner's Rights *"to the freedom of speech"* and *"to petition government for redress of grievances"*, through the imposition of a bill of attainder. That is a direct violation of the Constitution of the United States.

REASONS FOR GRANTING THE WRIT:

Petitioner is requesting immediate relief from the Supreme Court, so that he can proceed to a jury trial on newly discovered evidence which gave rise to issues never before presented, in new civil RICO and Civil Rights Litigation. It is, clear that violations of Title 18 USC Sect. 1961 et. seq. directly and proximately caused civil damages to Petitioner's right to own *significant property.* Civil Rights Act violations, including a de-facto admitted bribery of a Los Angeles County Supervisor, caused bankruptcy fraud and a resulting deprivation of Petitioner's rights to due process, in violation Title 42 USC Sect's. 1983; 1985 & 1986. The Civil Right's Case is combined with the bankruptcy fraud alleged under Rule 60(b) which has never been decided on the merits and/or on the newly discovered evidence. Therefore, Rico and Civil Rights claims are not precluded by *res judicata.*

The Supreme Court chose to deny certiorari review last year in cases 98-1924 & 98-1955 which involved unrelated issues, put to rest, by the Mandate of the Ninth Circuit Court. It goes without saying that in the event a jury finds for Petitioner in the consolidated RICO and Civil Rights Actions, the above mandate shall be subject to vacature.

"The Federal Rules of Civil Procedure were made

flexible by Congress, in order to prevent procedure from dominating substance. Parties are given broad power to join claims and parties in a single suit. Fed. R. Civ. P. 13, 14, 18, 20, 24. They are given the latitude to plead all their possible claims against opposing parties within the limits of good faith pleading. Fed. R. Civ.P. 8(a), 8(e),(2),11. Pleadings are liberally construed, Fed. R. Civ. P. 8(f); Conley v. Gibson, 355 U.S. 41 (1957), and amendments are freely allowed. Fed. R. Civ.P. 15(a). Court's may grant parties relief to which they are entitled to even though they never asked for it, Fed. R. Civ.P. 54(c). If the process still goes awry, despite all these opportunities to correct procedural errors, the court may grant relief from judgment, Fed. R. Civ. P. 60(b), or a new trial, Fed. R. Civ. P. 59." [12/]

The four basic prerequisites for *res judicata* are not present here: (1). There was never a final judgment, based on the new evidence presented in RICO & Civil Rights Claims.(2). The Bankruptcy Court judgment made subsequently to the April 2, 1992 hearing was not made on the merits, and the Bankruptcy Court admittedly lacked Jurisdiction to dissolve a California Partnership. It did so anyway without distributing assets to the Partners. (3). The claims are not the same claims as those made in Case No's. 89-1924 & 98-1955, RICO and Civil Rights Claims were not known to have existed at the time the subject action of the above cases was drawn. (4) The parties are the same, but other unknown wrongdoers have been discovered, who allegedly conspired with the same parties, which gave rise to the newly discovered RICO and Civil Rights Claims. Above all, the overriding consideration for Writ of Mandamus & Prohibition is that jury trial was consistently denied, through malfeasance of Gibson Dunn & Crutcher attorneys.

The fact is; no trial was ever held. There was a hearing in an biased tribunal on April 2, 1992, in the Bankruptcy Court

12/ "Civil Procedure" Joseph W. Glannon, Little Brown & Co. (1987) ISBN 0-316-31595, pg. 251.

of William Lasarow, where Plaintiff was the largest creditor. In the *"First Instance"* that hearing was flawed by an admitted lack of jurisdiction (See Petitioners, Petition for Writ of Certiorari Case No's. 98-1924 & 98-1955). That hearing was held in Bankruptcy Fraud emanating from the de-facto admitted Bribery which was recently discovered. Now, that case No. LA 89-27014WL/CA/ES is presided over by Judge Smith. Petitioner made a Counter Motion to that Court on 12-3-99, for Rule 60 (b) Relief, requesting a Jury Trial, which was summarily rejected by a prejudiced Judge Smith. Gibson Dunn & Crutcher attorneys rejected holding a Jury Trial in Bankruptcy Court, at a hearing on 12-16-99. Petitioner requested that Judge Smith *sua sponte* withdraw the reference to the U.S. District Court, Northern California District, San Jose Division where personal Jurisdiction lies over nine Defendants in the RICO Case, who are the same parties seeking the vexatious designation and are Defendants in the subsequently filed Civil Rights Case. Judge Smith refused Petitioner's request, in violation of the above cited Federal Rules of Civil Procedure and, her own Local Bankruptcy Rule's pertaining to "all parties must agree to a jury trial in Bankruptcy Court". Judge Smith must be prohibited from making any further decisions in that case, otherwise Fed. R. Civ.P. Rules 1, 2, 13, 14, 18, 20, 24 are not being made available to Petitioner. Thus, a Pro Se litigant is being deprived of equal protection, in violation of due process rights guaranteed by the Constitution of the United States.

Petitioner believes that the Supreme Court's jurisdictional authority over such extraordinary behavior in three federal courts must be invoked, and must be asserted, under these exceptional circumstances; (a) in the interest of justice; (b) in aid of the Court's Appellate Jurisdiction; (c) because adequate relief cannot be obtained in any other form or in any other court; (d) because the usages and principals of law have been prejudicially abused in this *"First Instance"*; (e) the Ninth Circuit Court of Appeals, in a normal process of appeal, cannot redeem Petitioner's Constitutional rights by reason of the fact

that such subsequent *court procedures, even though they include de novo review, cannot 'cure' bias in this initial adjudication.*[13] / That bias must be struck from the record, and it can only be struck by the Supreme Court through Mandamus and Prohibition.

There is an appropriate Sanction here, which is suggested as follows; the Supreme Court is bound to eliminate multiplication of litigation, therefore a reasonable action is to vacate all of the Orders of Judge Lasarow, which were made in bankruptcy fraud and which are void. Such a Sanction against Gibson Dunn & Crutcher attorneys, will bring an immediate ending to 10 years of litigation. It is about time to set an example and stop this type of abuse of Constitutional rights.

This Civil Rights matter is mandated statutorily to a jury trial, because a deprivation of civil rights to own *significant property* was caused by a "person", the County of Los Angeles, a subdivision of the State of California, under the meaning of and in violation of Title 42 USC Sect. 1983. Judge Whyte failed to heed that mandate. The peremptory writ of mandamus has traditionally been used in the federal courts only *"to confine an inferior court to a lawful exercise of it's prescribed jurisdiction or to compel it to exercise its authority when it is it's duty to do so."*[14/] *" While the courts have never confined themselves to an arbitrary and technical definition of 'jurisdiction' it is clear that only exceptional circumstances amounting to a judicial 'usurpation of power' will justify the invocation of this extraordinary remedy."* [15/] Such is the situation presented for Mandamus & Prohibition in this Petition.

Judge Whyte was asked to recuse himself on two specific occasions, because he showed exceptional and extraordinary

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13/ Ward, 409 U.S. 57, 93 S.Ct. 80

14/ Roach v. Evaporated Milk Ass'n., 319 U.S. 21,26 (1943)

15/ DeBeers Consol. Mines, Ltd. v. United States, 325 U.S. 211, 217 (1945)

bias against Plaintiff, in violation of Local Rule 40. His bias permeated a year of litigation during which time the docket shows 270 entries in thousands of documents, presented by both sides. The time and effort is equal to what it would have taken in a jury trial. Thus, Judge Whyte usurped the power from a jury. He refused to step aside.

De-facto, Judge Whyte tried the entire RICO case against thirty two Defendants in pre-trial Motions, without required discovery, in violation of the rules of Civil Procedure, case law, statutory law and in violation of the Rules of Evidence, without live testimony from live witnesses, and without the required jury. He dismissed the entire case against all Defendants, some of whom were in default. The judge caused irreparable harm in the *"First Instance"*, to Plaintiff's right to recover *significant property,* where Plaintiff is entitled to an unbiased tribunal. Instead, this Judge through willfully premeditated malice, violated Title18 USC Sect.1530, Obstruction of Justice. The Judge added one more predicate act in the pattern of previous Racketeering acts, which obstructed justice since 1986. Manipulated by opposing counsel, the Judge became an enabler and an accomplice in the Racketeering Influenced and Corrupt Organization , known as the "Sharon D. Lund Enterprise". The estate of a Chapter 11 Debtor, proceeding in alleged bankruptcy fraud, Case No. IA 89-27014 WL/CA, See Final Order of 12, 1999 & first sheet of three prior orders and the Notice of Appeal, attached to Appendix as "Exhibit A".

Petitioner filed a Civil Rights Complaint on 12-22-99 requesting a Temporary Restraining Order, Restraining the Bankruptcy Court From Further Proceedings in Bankruptcy Case LA. 89 270145 ES. See Order of The Duty Judge," Exhibit B" attached to Order denying Petitioner's Writ of Mandamus by the Ninth Circuit Court, Docket No. 00-70034 filed Jan 24, 2000, attached to Appendix as "Exhibit B".

On 01-22-2000, Petitioner filed a Complaint to the Judicial Council of the Ninth Circuit, for Judicial Misconduct and

Disability, with the Order of 01-20-2000, in the Civil Rights case No. CV 99-21236, both are attached to Appendix. as "Exhibit C". (At the time this Petition for Mandamus & Prohibition was prepared, results of that Complaint were not yet available).

Summary disposal, subsequent to full briefing, in favor of Petitioner, without argument is expected by nature of the obvious and consistent abridgment of due process rights, in the three federal courts shown, including the Ninth Circuit Court of Appeals.

REQUEST FOR RELIEF:

For the foregoing reasons, Petitioner prays that a writ of mandamus and prohibition issue from this Court directed as follows:

1. To the Honorable District Court of the Northern District of California, San Jose Division and to the Honorable Ronald M. Whyte, to show cause on a day to be fixed by this Court why mandamus should not issue from this Court directing said Honorable Ronald M. Whyte, to vacate and expunge from the record;

(a). The final order of dismissal with prejudice entered on Nov. 12, 1999, in the RICO Action, Case No. CV 98-21139, on Appeal at 9th. Cir. Docket No. 00-15135. (found in"Exhibit A")

(b). The Order entered on 01-20-2000, in the Civil Rights Action, Case No. CV 98-21139. (found in"Exhibit C")

(c). That the Honorable District Court of the Northern District of California appoint the Honorable Jeremy Fogel, who was originally independantly picked by the Clerk at the time this case was filed, to preside over a jury trial forthwith consolidating RICO and Civil Rights Actions, subject to an acceptable consolidated Amended Complaint, and to prohibit the Honorable Ronald M. Whyte and the the Honorable Spencer Williams from presiding over such a trial.

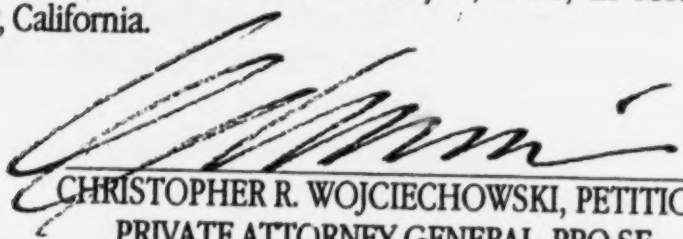
2. To the Honorable Ninth Circuit Court of Appeals, San Francisco, California and to the Honorable Circuit Judges; Robert R. Beezer, Diarmuid F. O'Scannlain and Sidney R.

Thomas, to show cause on a day to be fixed by this Court why mandamus should not issue from this Court directing said Honorable Judges to vacate and expunge from the record.Their order of 01-24-2000, Docket No. 00-70034. (found in"Exhibit B")

(3). To the Honorable Bankruptcy Court, Central District of California and to the Honorable Erithe A. Smith, to show cause why mandamus should not issue from this Court prohibiting said Honorable Judge Smith from proceeding further in Case No. LA 89-27014 WL/CA/ES and compelling a *sua sponte* dismissal with prejudice of that 10 year old case.

(4).That Petitioner have such additional relief and process as may be necessary and appropriate in the premises, including the suggested sanction at the top of pg. 12, above.

Respectfully Submitted on February 2, 2000, in Monterey County, California.



CHRISTOPHER R. WOJCIECHOWSKI, PETITIONER
PRIVATE ATTORNEY GENERAL, PRO SE

(Proof of Service is attached)

APPENDIX TO PETITION FOR WRIT OF MANDAMUS & PROHIBITION

"Exhibit A" **Pg.**

11-19-99 final Order of U.S. District Court which constitutes dismissal with prejudice of RICO Case by Judge Whyte, Denying Expedited Motion, **A-1**..... 17

(The following Orders show first sheets only)

10-27-99 Order Denying Motions of Christopher R. Wojciechowski, **A-2** 18

9-13-99 Order Denying Motions Disqualify and Re Submission of Motions, **A-3**..... 19

8-19-99 Order: Granting Certain Defendants' Motions to Dismiss RICO Case (all Defendants were dismissed by this Order, with prejudice) **A-4**... 20

12-9-99 Notice of Appeal in Rico Case **A-5** 21

"Exhibit B"

01-24-2000 Order of Ninth Circuit Court of Appeals Denying Petition for Writ of Mandamus of Duty Judge's refusal to issue TRO to Bankruptcy Court of Judge Smith, **B-1**..... 22

12-22-99 Order denying Request for a Temporary Restrainig Order, issued by Duty Judge, **B-2** 23-24

"Exhibit C"

01-21-2000 Petitioner's Complaint to Judicial Council of 9th. Cir. Crt. for judge Whyte's Disqualification for mental disabilities, **C-1**..... 25-34

01-20-2000 Judge Whyte's Order , **C-2**..... 35-49

FILED
Nov 12 1999
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI,
Plaintiff,
v.

NO. C 98-21139 RMW
ORDER DENYING
EXPEDITED MOTION

WALT DISNEY CONCERT HALL NO. 1
et. al.,
Defendants.

On November 3, 199, Christopher R. Wojciechowski filed a "Motion for Leave to File: Under Civil L.R. 7-9(b)(3)(d) For Reconsideration of Order of Oct. 27, 1999; dismissing All Defendants; From This Case; Affidavit Under 28 USC Sect. 144, of Bias and Prejudice Against Presiding Judge, Hon. Ronald M. Whyte." The court will construe this as two separate motions: (1) a motion for leave to file a motion to reconsider the court's order denying Wojciechowski's earlier motion to vacate the dismissal of his claim with prejudice; and (2) a motion to disqualify this court from hearing further proceedings in this matter. Both motions raise arguments that the court has considered and rejected in past rulings., the court therefore denies the motions.

DATED: 11-8-99

"S"/_____
RONALD M. WHYTE
United States District Judge

EXHIBIT A-1

FILED
Oct. 27 1999
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI, Plaintiff, v. WALT DISNEY CONCERT HALL NO. 1 et. al., Defendants.	NO. C 98-21139 RMW ORDER DENYING MOTIONS OF CHRISTOPHER R. WOJCIECHOWSKI **[Re: Docket Nos. 241, 242, 264]**

On September 3, 1999 Christopher R. Wojciechowski filed two sets of papers with the court: (1) a "motion Pursuant To: FRAP 4(a)(4)(iv); FRCP. Rule 59(a)(b)(c)(e) & 52(b) for additional findings of fact; To Alter or Amend Order Dismissing RICO Action Against all Defendants' and accompanying papers; and (2) a "Motion Pursuant To: FRAP 4(a)(4)(iv); FRCP. Rule 60(b)(3) for Relief from Fraud on Court by Attorneys & Judge to Vacate Judgment Which Dismissed RICO Case Against Defendants" also with accompanying papers. By its order filed September 13, 1999, the court partially denied these motions to the extent that they sought disqualification of this court from hearing further matters in this case. The court also ordered that the remainder of these motions be submitted without oral argument. Wojciechowski subsequently filed an *Ex Parte* "Motion for: Miscellaneous Ex Parte Request Under L.R. 7-11(d) for Enlargement of Time, Clarification and/or... (*First page only to save paper*)

EXHIBIT A-2

FILED
SEP 13 1999
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI,
Plaintiff,

v.

WALT DISNEY CONCERT HALL NO. 1 et. al.,

Defendants.

NO. C 98-21139 RMW
ORDER DENYING MOTION DISQUALIFY AND RE SUBMISSION OF MOTIONS

Plaintiff Christopher R. Wojciechowski's ("plaintiff") motion for additional findings of fact; to alter or amend order dismissing RICO action against all defendants and plaintiff's motion for relief from fraud on court by attorneys & judge to vacate judgment were filed on September 3, 1999. The court denies plaintiff's motion to disqualify the court from hearing further matters in this case, which motion is contained within plaintiff's motion for additional findings of fact; to alter or amend order dismissing RICO action against all defendants. The basis for the motion to disqualify is that plaintiff does not like the rulings made to date by the court. This on its face is insufficient to support a request for disqualification.

The remainder of plaintiff's motion for additional findings of fact; to alter or amend order... (*First page only to save paper*)

EXHIBIT A-3

FILED
AUG 19 1999 A 11:18
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI,
Plaintiff,
v.
WALT DISNEY CONCERT HALL NO. 1 et. al.,
Defendants.

NO. C 98-21139 RMW
ORDER
(1) GRANTING CERTAIN DEFENDANTS' MOTIONS TO DISMISS;
(2) RE CERTAIN DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT;
(3) RE PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT\ AS A SANCTION AND
(4) RE COUNTER-MOTION OF DEFENDENTS HARRY J. KIM & FINER, KIM & STEARNS FOR SANCTIONS
[Re: Docket Nos. 144, 145, 148, 149, 153, 161, 172, 178, 182, 1909, 203]

The following motions were heard on August 6, 1999: (1) MOTION BY COUNTY OF LOS ANGELES, JOHN P. SHOOK, EDMUND D. EDELMAN AND... (*First page only to save paper*)

EXHIBIT A-4

CHRISTOPHER R. WOJCIECHOWSKI
Customs Road, Pebble Beach, Calif.
Mailing Address: P.O. Box 1171
Pebble Beach, CA 93953
Tel. No. 831 372 5590
Appellant/Plaintiff,
Private Attorney, General, Pro Se

FILED
Dec 9 2 13 PM '99
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHRISTOPHER R. WOJCIECHOWSKI,
APPELLANT/PLAINTIFF,

CASE NO. C-98 21139
[RICO/ CASE UNDER
18 USC 1961 et.seq.]

WALT DISNEY CONCERT HALL NO. 1; WALT DISNEY CONCERT HALL NO. 2; TRUSTEES OF THE LILLIAN B. DISNEY TRUST: SHELLY B. THOMPSON, CO -TRUSTEE; U.S. TRUST COMPANY, NATIONAL ASSOCIATION, CO -TRUSTEE; ROBERT L. WILSON, CO -TRUSTEE; EXECUTORS OF THE WILL OF LILLIAN B. DISNEY: ROBERT L. WILSON CO - EXECUTOR; U.S. TRUST COMPANY, NATIONAL ASSOC. ,CO - EXECUTOR; DIANE DISNEY MILLER IN HER INDIVIDUAL CAPACITY; EXECUTORS OF THE ESTATE OF SHARON D. LUND: U.S.TRUST COMPANY, CO -EXECUTOR; DIANE DISNEY MILLER, CO-EXECUTOR; RONALD E. GOTHER CO - EXECUTOR; THE COUNTY OF LOS ANGELES; (13) HARRY HUFFORD; JOHN P. SHOOK; RONALD E. GOTHER, IN HIS INDIVIDUAL CAPACITY; GIBSON DUNN & CRUTCHER; JANE LINDSAY WINGFIELD; BENNETT L. SILVERMAN; CHARLES S. BATTLES, JR.; LAUREL BALLARD; WILLIAM LASAROW; PETER L. SHAW; CANYON OAKS ESTATES L.P; TOPANGA OAKS INC.; ROBERT L. WILSON IN HIS INDIVIDUAL CAPACITY; HARRY J. KIM; FINER KIM & STEARNS; ALAN D. HARRIS; HARRIS & RUBLE; U.S. TRUST COMPANY, N.A.; JOHN C. WESTWATER; EDMUND D. EDELMAN; LARRY J. MONTEILH & RETLAW ENTERPRISES INC.
APPELLEES/ DEFENDANTS,

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN:Appellant, CHRISTOPHER R. WOJCIECHOWSKI, HEREBY APPEALS: to United States Court of Appeals for the Ninth Circuit, from final Order, of November 12, 1999, dismissing with prejudice, all Defendants from this case. (See attached copy of final Order and 1st. sheets of underlying earlier orders, dating back from August 19, 1999, to the final order).

Dated: December 8, 1999

's'/_____
Christopher R. Wojciechowski, Private
Attorney General, Appellant/Plaintiff,Pro Se

EXHIBIT A - 5

FILED
JAN 24 2000
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: CHRISTOPHER R. WOJCIECHOWSKI,

CHRISTOPHER R. WOJCIECHOWSKI,
Petitioner,

v.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE),
Respondent,

MONTEVIDEO PARTNERSHIP, Debtor a.k.a. Canyon oaks Estates L.P.; et al.,
Real Parties in Interest.

No. 00-70034
DC#CV-99-21236SMW
Northern California
(San Jose)

ORDER

Before: BEEZER, O'SCANNLAIN and THOMAS, Circuit Judges

Petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. United States Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

Petitioner's request for a temporary restraining order is denied as moot. No motions for reconsideration, rehearing, clarification, or any other submissions shall be filed or entertained in this closed docket.

PETITION DENIED.

EXHIBIT B-1

ORIGINAL
FILED
DEC 22 1999
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI,
Plaintiff,

v.

MONTEVIDEO PARTNERSHIP, et. al.,
Defendants.

Civil No. 99-21236 EAI

ORDER DENYING REQUEST FOR A TEMPORARY RESTRAINING ORDER

Pro se Plaintiff Christopher Wojciechowski filed a Complaint on December 22, 1999 alleging various civil rights violations. It also appears that Plaintiff, who has filed an "Affidavit is [sic] support of T.R.O.," seeks a temporary restraining order ("TRO"). In the affidavit, Plaintiff asks this Court to prevent United States Bankruptcy Judge Erithe A. Smith from proceeding with the determination of a pending motion to (1) designate Mr. Wojciechowski a vexatious litigant, (2) impose pre-filing review, and other restrictions and notification requirements on Mr. Wojciechowski, and (3) require Mr. Wojciechowski to post security.

In the Ninth Circuit, the standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction. Alaska v. Native Village of Venetie, 856 F.2d 1384, 1389 (9th Cir. 1988). To obtain a preliminary injunction, a movant must demonstrate "either a likelihood of success on the merits and the possibility of irreparable injury, or that serious questions going to the merits were raised and the balance of hardships tips sharply in its favor." Sega Enters. Ltd. v.

Accolade, Inc., 977 F.2d 1510, 1517 (9th Cir. 1992) (citations omitted). The alternatives in the above standard represent "extremes of a single continuum," rather than two separate tests. Benda v. Grand Lodge of Int'l Ass'n of Machinists & Aerospace Workers, 584 F.2d 308, 315 (9th Cir. 1978). A "serious question" is one on which the movant has a "fair chance of success on the merits." Sierra On-Line, Inc. v. Phoenix Software, Inc., 739 F.2d 1415, 1421 (9th Cir. 1984).

Having reviewed the Complaint and the Affidavit, the Court determines that Plaintiff's arguments in favor of a TRO are entirely without merit. He has not shown either a likelihood of irreparable injury or a likelihood of success on the merits.

Plaintiff's request for a temporary restraining order is DENIED.

The Clerk is instructed to send by facsimile a copy of this Order to United States Bankruptcy Judge Erithe A. Smith.

IT IS SO ORDERED.

DATED: Dec. 22, 1999

"S"/_____
SPENCER WILLIAMS
United States District Judge

EXHIBIT B-2

COMPLAINT FORM
JUDICIAL COUNCIL OF THE NINTH CIRCUIT
COMPLAINT OF JUDICIAL MISCONDUCT AND DISABILITY

MAIL THIS FORM TO THE CLERK, UNITED STATES COURT OF APPEALS, P.O. BOX 193939, SAN FRANCISCO, CA 94119-3939. MARK THE ENVELOPE "JUDICIAL MISCONDUCT COMPLAINT" OR "JUDICIAL DISABILITY COMPLAINT." DO NOT PUT THE NAME OF THE JUDGE ON THE ENVELOPE.

SEE RULE 2(C) FOR THE NUMBER OF COPIES REQUIRED FOR FILING:

1. Complainant's name: *Christopher R. Wojciechowski*
Address: *P.O. Box 1171 Pebble Beach, CA 93953*
Daytime Telephone: *(831) 372 5590 Fax No. (831) 375 4525*

2. Judge Complained about: *Hon. Ronald M. Whyte*
Court: *U.S. District Court for Northern California, San Jose Division*

3. Does this complaint concern the behavior of the judge in a particular lawsuit or lawsuits? *YES*

If yes give the following information about each lawsuit:
Court: *same as above*
Docket Number: *C-99-21236 EAI*
Are (were) you a party or lawyer in the lawsuit? *YES, Party, Pro Se*
If a party, give the name, address and telephone number of your lawyer:: *Same as above Pro Se*
Docket numbers of any appeals to the Ninth Circuit: *See Statement*

4. Have you filed any lawsuits against the judge? *NO*

5. On separate sheets of paper, not larger than this form is printed or., describe the conduct or the evidence of disability that is the subject of this complaint. See rule 2(b) and 2(d). Do not use more than 5 pages (5 sides).

I declare under penalty of perjury –

I have read rules 1 and 2 of the Rules of the judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct or Disability, and the statements made in this complaint are true and correct to the best of my knowledge.

's'/_____ Date: 1-21-2000 **EXHIBIT C-1**

Statement of Christopher R. Wojciechowski attached to Complaint Form of Judicial Council for the 9th. Circuit

Re: U.S. District Court Judge Ronald M. Whyte's Disqualification

January 21, 2000

1. Yesterday evening I came back to my office and found a Fax Transmission from the Hon. Ronald M. Whyte, re Wojciechowski v. Montevideo Partnership, a Civil Rights Case, No. C-99-21236 EAI. The fax consists of 14 pages, wherein Judge Whyte decided to take over this case, from the Hon. Edward A.Infante, Magistrate Judge. When I read the fax I marked it with my comments, a copy is attached to this statement.

2. This statement is made to show that Judge Whyte, *"has engaged in conduct prejudicial to the effective and expeditious administration of the business of the court* (his) *and he is unable to discharge all of his duties of office by reason of mental disability"* **16/**.

3. Complainant, due to the 5 page limitation, shows below only a few of the concerns in the marked up Order of 1-20-2000. However, this is sufficient to establish that Judge Whyte, is in all probability suffering severe stress which gave rise to a mental disorder best described clinically as a combination of Schizophrenia, Involving a Delusional Disorder with Factitious Mild Neurocognative Disorders. Expert's in the field should be called in to carefully analyze and corroborate this opinion. This combination resulted in a pattern of behavior by Judge Whyte since November 16, 1998 when Complainant's RICO Action Case No. C-98-21139 was similarly usurped from the Hon. Jeremy Fogel. At that time Judge Fogel was also assigned, to that case, same as was Judge Infante, impartially assigned by the Court Clerk, last month.

4. Complainant first thought that such behavior was error, which caused Judge Whyte to dismiss the RICO Action

16 / 28 USC Sect. 372 (c)(1).

against all defendants without cause. Complainant was angry at the obvious 30 errors reported in the Petition for Writ of Mandamus & Prohibition, filed in this Court on January 11, 2000, Docket No. 0-70034. When Complainant received the above fax yesterday he realized that Judge Whyte, did not make, erroneous decisions filled with lies but, that Judge Whyte is just *unable to discharge all of his duties of office by reason of the mental disability* described above, and touched on in the discussion following. It seems that Judge Whyte just, cannot do his job by reason of the fact that he cannot remember facts, case law, and even the content of his own orders, as will be shown here and in the marked up copy.

5. Complainant realizes the gravity of this statement. However, the seriousness of Judge Whyte's mental condition is much more important to the attainment of justice in the U.S. District Court, than is the personal risk Complainant takes by bringing this matter before the Judicial Council of the Ninth Circuit.

6. Complainant, has chosen to represent himself, since 1992 17/, in these matters, acting in the capacity of a Private Attorney General, under that California Doctrine. There was no choice, no attorney in the State of California was willing to take the RICO case against the behemoth law firms of Gibson Dunn & Crutcher and Latham & Watkins. These firms are, to say the least, *very well positioned*. Combined with a dysfunctional California State Bar Association, it is extremely difficult for Complainant to proceed in his causes. On top of that dilemma, Judge Whyte is allegedly suffering from a chronic mental disability. As a result of probable Schizophrenia he has decided to protect and be prejudiced, in favor of his colleagues who are

17 / See attached copy of Declaration of C.R. Wojciechowski under 28 USC Sect. 1746; 5 USC Sect 552 filed in U.S. Bankruptcy Court Central District. This Declaration is a demand for prompt discovery, under the Freedom of Information Act (FOIA), scheduled to take place in February, and it is a request for consolidation with this Civil Rights case, it was served on all parties shown in attached proof of service.

EXHIBIT C-1

lawyers, as is he. He has done so in every one of his decisions, all of which were made against Complainant. That fact exacerbates the principal of an impartial tribunal, in the first instance, which this court knows, can never be reversed on Appeal.**18/**

7. Before Complainant shows the Judicial Council examples of Judge Whyte's inability to do his job, it is necessary to show and analyze Judge Whyte's suspected medical disorder. It is described in clinical terms, which were found and explained in: "DIAGNOSTIC & STATISTICAL MANUAL OF MENTAL DISORDERS 4 TH. EDITION" published by the American Psychiatric Association, Task Force on DSM-IV, Allen Frances MD, Chairperson, ISBN 0-89642-061-0.

(i) Schizophrenia; *"Popular usage to the contrary. Schizophrenia is not synonymous with split personality (which falls closest to Dissociative Identity Disorder). Schizophrenia is a brain disorder that causes severe problems in thinking, feeling and behavior. People with Schizophrenia experience difficulty distinguishing reality from fantasy. They also have trouble relating to other people, communicating through language, controlling their emotions and making everyday decisions."* 19/

(ii). Judge Whyte's Schizophrenia is exhibited in his inability to distinguish the "good guys" from the "bad guys". The attorney Defendants in the two subject cases are to Judge Whyte, the good guys. Not because of the facts presented, but because he is one of them and needs to think the fantasy that, since he is one of them, they must be the good guys and everyone else, including Complainant who, regardless of the facts is, in his fantasy, "a bad guy", complaining about the "good guys". In his disturbed mind, he and the "good guys" could never do anything wrong. Therefore he sides with them and finds a way to dismiss all causes of Action brought to him by the

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18 / Ward, 409 U.S. 57, 93 S.Ct. 80.

19 / pg. 313, in book; "Your Mental Health" by Allen Frances M.D. Chairperson DSM -IV, ISBN 068483720X **EXHIBIT C-1**

"bad guy". Which, due to his Schizophrenia, in his mind, he is convinced that all such actions are brought against himself. In the fantasy of his mind the attorney's at the two law firms are symbols of what he could have been.They are his idols. By association, he lives vicariously, being one of them. He has transposed his position from being a judge to being a"victim". This fantasy makes him prejudiced in favor of them, and against Complainant, who will always be the "bad guy". He is so protective that he made up his mind, that he certainly does not want to preside over a jury trial where his "idols" might have to pay treble damages to the "bad guy". That is the source of his chronic stress. He has expressed on more than one occasion in his orders, that he is "loathed to have the Defendants spend money" Defending against, what he believes in his fantasy is; the ultimate BAD GUY, A PRO SE LITIGANT. Therefore, his brain disorder causes the problems which end up as a series of Obstructions of Justice in violation of Title 18 USC Sect 1503. Unfortunately, a Schizophrenic delaying act in the faxed order, makes him; *unable to discharge all of his duties of office by reason of the mental disability.* Yet, he convincingly believes that he has helped his own kind, and that he did his job as a Judge. Unfortunately, as this Judicial Council knows, in reality he is aiding and abetting Defendants in Racketeering Activity and in the deprivation of Complainants due process right to a jury trial. His disturbed mental condition allows this unusual conduct, by association. In other words, it makes him feel good that, he helped his idols the "good guys" to take away Complainants rights, to a jury trial.

(iii). The Delusional disorder is defined;"*as a mental disorder which one holds onto, with complete conviction to strange beliefs that everyone else says are simply not true."* By association, Judge Whyte's disturbed mind *holds complete conviction* that his idols the "good guys" are right. The real problem, in this complex situation is in the part: "*everyone else says are simply not true*". That part refers to the noticed

violations of his "idols" of RICO and Civil Rights statutes, case law cited and the Federal Rules of Civil Procedure which are "everyone else" in this context. Everyone else, clearly and convincingly, allows a liberal approach to Amending Complaints, especially those of a Pro Se litigant, who has every opportunity to state his case against wrongdoers. It is for that reason, Judge Whyte usurped the RICO Action from Judge Fogel. He knew Judge Fogel has no agenda such as is manifest in Judge Whyte. He knew Judge Fogel would be liberal, as he must be with addendum's. Whereas Judge Whyte, gave Complainant just one chance to amend his RICO complaint, and then he dismissed it against all Defendants, to make certain that his "good guys" did not have to face treble damages. Now, he has apparently done the same with Judge Infante and will not allow Complainant even one amendment in the Civil Rights Case. In his delusional disorder fantasy, Judge Whyte has won the day, without the need of response to a verified Complaint. He did it all by himself, for the "good guys" again. He is proud of it. Complainant believes, that is a *strange belief* for a Judge.

(iv). Factitious Mild Neurocognative Disorders complete the disturbed mind of Judge Whyte, by reason of the fact that in Factitious Disorders with *Ganser's Syndrome*, there exists a psychological disturbance. A characteristic of that syndrome, is exhibited throughout Judge Whyte's faxed order and all of his orders in the two cases in question, where he gives approximate answers. An example used in Dr. Frances' book which defines the *Ganser's Syndrome* is an answer where (8x8=65). In his latest faxed Order Judge Whyte starts of giving such approximate answers on the first page:

(a). In the caption he writes: (1) No. C-99-21236-RMW [Previously C-99-21236-EAI) & (2) ORDER RELATING CASES AND TO SHOW CAUSE. That is the same type of approximation in the mental disorder called, *"Factitious Genser's Syndrome"*. The choice of an answer near the correct one is indicative that the person knows the real response. Judge Whyte's "answers"

are not quite correct, but in his fantasy he hopes they will suffice for the purpose intended, his own Schizophrenic protection and that of his "idols".

(b). On pg. 1, line 23 Judge Whyte incomprehensibly finds the partial answer without even stating the question, that act is symptomatic of the *"Factitious Genser's Syndrome"*. He delays Complainants recovery of significant property and monies, without any basis or explanation whatsoever by ordering; *"The court stays all proceedings until Complainant can show cause that the complaint in this matter should not be dismissed with prejudice etc"*. Defendants have not been served and none have filed responsive pleadings to the Complaint. That is a Schizophrenic view by Judge Whyte of FRCiv.P. Rule 8 (b)(c)(d)(f) and Rule 12, and again, it is not quite accurate.

(c). On pg. 1, line 26 -27 Judge Whyte orders, without any foundation or basis whatsoever, *"that Complainant must show cause why he should not be required to pay a contempt bond before filing subsequent law suits against defendants in this law suit that relate to the bankruptcy proceedings currently pending in the Central District of Los Angeles."* That is a clear and convincing sign of a confused mind and *"Schizophrenia involving a Delusional Disorder and a Factitious Genser's Syndrome"*. In such a state of mind Judge Whyte simply cannot and is *"unable to discharge all of his duties of office by reason of the mental disability."*

(d) On page 2 ln. 6 Judge Whyte makes a *"Factitious Genser's Syndrome"* answer to no question; *"the collapse and subsequent bankruptcy of the real estate partnership"* . The partnership he is referring to (a) never collapsed, as a matter of fact it is still operating and in existance as evidenced by the Debtor Partnership conducting a ten year old bankruptcy case to the present time.

(b). Complainant was illegally forced out of that partnership in1992. (c). That is the bankruptcy fraud that gave rise to the RICO Complaint combined with the recently discovered bribery

of a Los Angeles County Supervisor, which gave rise to this Civil Rights Action. Judge Whyte's mind apparently cannot accept those facts. Therefore he lives in his delusional fantasy which prohibits him from *"discharging all of his duties of office by reason of the mental disability"*.

(e) The same is true of his statement on pg.2, ln. 10 *"that Defendants removed to this court."* Judge Whyte's *"Factitious Genser's Syndrome"* prohibits him from acknowledging the fact that it was Plaintiff, the Complainant here, who removed that case to the U.S.District Court in San Jose. For some reason that inaccurate statement is important to his delusional fantasy which clearly and convincingly prohibits him from *"discharging all of his duties of office by reason of the mental disability"*.

(f) There are many more such *"Factitious Genser's Syndrome"* examples in Judge Whyte's work as is shown on pg. 4, ln. 20, in the faxed order and in all the places marked but, Complainant is running out of space to discuss and cannot discuss all of them, according to the rules limiting this five page statement. Complainant has underlined each place in the faxed Order, which brings Judge Whyte's mental disability into question. Complainant has called the 30 *"Factitious Genser's Syndrome"* examples, errors in the Petition for Writ of Mandamus and Prohibition, Docket No. 0-70034, in this Court, because there it is called for. Complainant will be pleased to spend additional time to go over the entire faxed Order and the 30 items, if the Judicial Council requires further analysis on a line by line basis. Now Complainant would just like to touch on the subject of Mild Neurocognative Disorders attributable to Judge Whyte, and wind up within the five page limitation.

(v). *"The Features of a Mild Neurocognative Disorder essential, is the development of impairment in Neurocognative functioning that is due to a general medical condition. By definition, the level of cognitive impairment and the impact on everyday functioning is mild (e.g., the individual is able to*

partially compensate for cognitive impairment with additional effort). Individuals with this condition have a new onset of deficits in at least two areas of cognitive functioning. These may include disturbances in memory (learning or recalling new information), executive functioning (e.g., planning, reasoning), attention or speed of information), perceptual motor abilities(e.g., integrating visual, tactile, or auditory information with motor activities), or language (e.g., word finding difficulties, reduced fluency). The report of cognitive impairment must be corroborated by the results of neuropsychological testing or bedside standardized cognitive assessment techniques. Furthermore, the cognitive deficits cause marked distress or interfere with the individual's social, occupational, or other important areas of functioning and represent a decline from a previous level of functioning. The cognitive disturbance does not meet criteria for a delirium, a dementia, or an amnesic disorder and is not better accounted for by another mental disorder (e.g., a Substance-Related Disorder, Major Depressive Disorder)." **20/**

8. Apparently Judge Whyte's condition as is shown above, will become more noticeable as time goes by, unless it is treated. It is chronic in it's present state and drastically affects his performance as a Judge. For his own welfare and the welfare of his family, he should be put under psychiatric care immediately and given a long leave of absence from his job, until he fully recovers. Complainant suggests therefore that Judge Whyte's faxed Order of January 20, 2000, be vacated as soon as possible, without the need to waste Complainants time in answering Judge Whyte's demands therein. Complainant requests that this Civil Rights Case be allowed to proceed unfettered at *warp speed* in the Court of Hon. Jeremy Fogel, who would have heard this case anyway, had he been given the opportunity to be the presiding judge, as he was chosen to be, by the Clerk, when Complainant filed the RICO Action in San Jose on 11-16-98.

20 / from pg. 706 of Dr. Frances' DSM - IV. **EXHIBIT C-1**

9. In addition, because of these unusual circumstances, Complainant requests a recommendation by this Judicial Council, that the Appeal filed by Complainant in the RICO case should be granted sua sponte by the Ninth Circuit Court of Appeals without the need for briefing, also Complainant's Appeal, pertaining to Judge Whyte's dismissal with prejudice of Latham & Watkins Docket No 99-15702, which has been fully briefed, be granted and remanded to Judge Fogel's court for consolidation with the Civil Rights case.

Respectfully submitted on January 21, 2000, at Monterey County, California.

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Christopher R. Wojciechowski, Complainant, Pro Se
In his capacity as a Private Attorney General.

EXHIBIT C-1

FAX TRANSMISSION JAN 20 '00 03:56 PM CT SAN JOSE

Filed
JAN 20 2000
Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER R. WOJCIECHOWSKI NO. C-99-21236-RMW
[Previously C-99-21236 EAI]

Plaintiff,

v.

ORDER RELATING CASES AND TO SHOW CAUSE

MONTEVIDEO PARTNERSHIP et al.,

Defendants,

The court has received the Notice of Related Cases filed by specially appearing defendant Arthur B.Cook and the opposition filed thereto by plaintiff Christopher R. Wojciechowski. For the reasons given below, the court finds that this case is related to the two actions previously filed by Wojciechowski in this court.The court stays all proceedings until Wojciechowski can show cause that the complaint in this matter should not be dismissed with prejudice pursuant to Rules 8, 10, 11 and 12 of the Federal Rules of Civil Procedure and Rule 3-3(c) of the Civil Local Rules. Finally, the court orders Wojciechowski to show cause why he should not be required to pay a contempt bond before filing subsequent lawsuits against defendants in this lawsuit that relate to the bankruptcy proceedings currently pending in the Central District of Los Angeles.

EXHIBIT C-2

I. BACKGROUND

Wojciechowski is no stranger to the legal system, nor, of late, to this court. A real estate partnership in which he was involved was reorganized by the United States Bankruptcy Court for the Central District of California in 1991. Compl. Sect. 5. **1** He is currently (and by his own admission) the subject of vexatious litigant proceedings in the Central District of California for his persistent efforts to revisit issues relating to the collapse and subsequent bankruptcy of the real estate partnership. Compl. Ex. V (order status conference on vexatious litigant proceedings).

This court has personally presided over two suits initiated by Wojciechowski. The first, Wojciechowski v. Walt Disney Concert Hall No. 1, No. C-96-21018-RMW (the Monterey action), was a state court action that defendants removed to this court. This court dismissed the complaint in that action for procedural error. The Ninth Circuit affirmed on different grounds, remanding to this court to dismiss the complaint for improper venue, and to dismiss certain defendants (many of whom are parties to the instant litigation) with prejudice because Wojciechowski's filing of the suit against them was a contempt of court. 173 F.3d 862 (9th Cir. 1999) (table opinion, available in 1999 WL 2011440). In the second case, Wojciechowski v. Walt Disney Concert Hall No. 1, No. C-98-21129-RMW (the RICO action), Wojciechowski brought suit in this court for an alleged conspiracy by defendants. The complaint was dismissed with prejudice, and a judgment of dismissal entered, when Wojciechowski proved unable to plead his case in a comprehensible manner. The court's opinion in that matter expressed its concern about the possibly vexatious nature of the case (particularly because it appeared to be barred by the doctrines of claim and issue preclusion)(, but noted that it was unable even to make out the gravamen of plaintiff's complaint because it was so confusing. Wojciechowski recently

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1. As discussed below, the "paragraphs" in Wojciechowski's

claims contain multiple factual allegations.

filed a Notice of Appeal in the RICO Action, after the court denied successive motions to vacate the judgment and/or disqualify this court from considering those motions.

Not to be deterred, Wojciechowski has filed a new complaint in this judicial district against many of the same defendants from the first two actions. The complaint bears the following caption: "Verified Complaint for Civil Rights Action Under Title 42 USC Sect's. 1981, 1983, 1985 & 1986 And For The Setting Aside Of Bankruptcy Court Order For Fraud On Court By Attorney's [sic] Under Rule 60(b) & Others, Who In Conspiracy Interfered With Plaintiffs [sic] Civil Rights And Action For Neglect To Prevent {?], Under Sect. 1986; Based On Verified Complaint Accompanying Request For Temporary Restraining Order Restraining Bankruptcy Court From Further Proceedings In Bankruptcy Case LA 89 270145ES"
The case was assigned to the Magistrate Judge Infante. As the caption indicates, Wojciechowski sought a temporary restraining order (TRO) to terminate the vexatious litigant proceedings pending in the Central District. The request for a TRO was referred to Senior Judge Williams, who denied the motion, finding that Wojciechowski has shown neither a likelihood of irreparable injury or a likelihood of success on his claims.

On December 28, 1999, specially appearing defendant Arthur B. Cook filed a notice of related case. Cook submits that the action is related, because it seeks to revisit issues litigated in the 1991 and 1992 bankruptcy proceedings, including Wojciechowski's claims to real property and money lost as a result of his investment in the Montevideo Partnership. On January 3, 2000, Wojciechowski filed an opposition. **2**

II. ANALYSIS

The court first turns to the dispute between the parties

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2. The opposition is entitled "Plaintiff's Opposition to Defendant Arthur B. Cook 'Judge Shopping' Through His Notice

Of Related Case."

over the propriety of relating and reassigning this case. The court will then address the need to ensure that this court is not being used as a forum for vexatious and frivolous litigation against the defendants in this case.

A. The Notice of Related Cases

Wojciechowski does not directly deny that the subject-matter if this proceeding is unrelated to the subject-mater of the RICO and Monterey Actions. Indeed, such a contention would be barred by the doctrine of judicial estoppel, because Wojciechowski's complaint specifically states that the RICO Case is "related" to this case. Compl. Sect. 4. Instead, Wojciechowski attacks the integrity of this court and the defendants, intimating that they may be conspiring to prevent him from receiving his day in court. Specifically, he alleges (1) that this court is biased and "brain dead" and should therefore not hear further proceedings pursuant to 28 U.S.C. Sect. 455; (2) that defendant's notice of related cases is an attempt at judge shopping, which is prohibited by Civil Local Rule 3-3; and (3) that this court is alleged to have "engaged in conduct prejudicial to the effective and expedious administration of the business of the court" and is therefore precluded from hearing this case pursuant to Civil Local Rule 77-8, which establishes a procedure for reporting judicial misconduct or disability.

These contentions are meritless. The only reason that Wojciechowski articulates for judicial disqualification pursuant to 28 U.S.C. Sect. 455 is disappointment with this court's previous decisions, which is not a valid reason to seek disqualification. The allegations of "judge shopping" are unsubstantiated, and in any case unauthorized by the Local Rules; by its terms, Civil Local 3-3 only applies to parties who refile dismissed actions in hopes of receiving a different judge. **3** Finally, Wojciechowski does not allege that this court is actually the subject of an

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3. Indeed, Civil Local Rule 3-3 appears to warrant sanctions against Wojciechowski, not against Cook (see discussion below).

investigation pursuant to Civil Local Rule 77-8, or that being the subject of such an investigation automatically precludes this court from hearing cases brought by a complainant. 4

Because Wojciechowski admits that this case is related to the RICO Action, and because there is no impediment to reassignment to the undersigned court, the court finds that the cases are related and that the case should be reassigned to this court.

B. Violations of the Federal and Local Civil Rules of Procedure

Although a somewhat extraordinary procedure, it is well established that the court has authority to issue an order to show use why a clearly deficient complaint should not be dismissed. Given the dismissal with prejudice of Wojciechowski's two previous complaints, the court is especially concerned that defendants not be forced to bear considerable expense defending yet another law suit premised on real estate transactions that apparently took place in the late 1980's and were wound up by the bankruptcy court no later than 1992.

Accordingly, the court issues an order to show cause why the complaint should not be dismissed for various reasons, which are discussed in turn.

1. Rule 8(a) of the Federal Rules of Civil Procedure

Rule 8(a)(2) requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Wojciechowski's claims appear to center on the conduct of the vexatious litigant proceedings in the Central District, particularly;y the presence of two armed guards in the courtroom in Los Angeles. Compl. Sect. 7. However, he also appears to

4. Normally, a judge subject to such an investigation would be well advised not to hear a case brought by a party that has filed a complaint of judicial misconduct. However, litigants should not be allowed to procure automatic reassignment of a case simply by making complaints of judicial misconduct, much less by submitting papers that ominously allude to the possibility of

making such complaints.
charge that there were civil rights violations committed by various defendants for failure to serve him with legal papers. Compl. Sect. 11. He also appears to desire an injunction of some sort to prevent "discrimination" against him. Compl. Sect. 19. Interspersed in the complaint are quotations from various legal documents, including Wojciechowski's original RICO complaint, which this court earlier dismissed for its incomprehensibility. Compl. Sect. 21. **5**

In short, the complaint is a rambling monstrosity that puts no one on notice –not the court, nor the defendants –of the substance of Wojciechowski's allegations. As such, it would appear that the complaint should be dismissed for failure to provide anything resembling "a short and plain statement of the claim showing that the pleader is entitled to relief." In light of the court's prior orders dismissing his complaints for violations of this rule, Wojciechowski cannot be said to be ignorant of the Rule or its requirements. In addition, the previous case, combined with the unwieldy nature of the current complaint, cast serious doubts on Wojciechowski's ability to cure the defects in his complaint. Accordingly, Wojciechowski is ordered top show cause why his complaint should not be dismissed with prejudice pursuant to Rule 8(a).

2. Rule 10(b) of the Federal Rules of Civil Procedure

Rule 10(b) requires that all "averments of claim or defense shall be made in numbered paragraphs, the contents of which shall be limited as far as practicable to a statement of a single set of circumstances....Each claim founded upon a separate transaction or occurrence...shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth." As in his RICO complaints, the instant complaint does not even approach this standard. Lest

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5. Indeed, Wojciechowski makes no bones about his intention to relitigate the dismissed RICO complaint. Compl. Sect. 21 (incorporating by reference earlier RICO claims).

there be any doubt on this subject, the court shares the text of paragraph 18 of the complaint:

18. CLAIM No. 13. Under Sect. 1985 and 1983, All Defendant's shown in caption formed a conspiracy to intentionally discriminate against and deprive Plaintiff of rights and privileges guaranteed by the Constitution of the United States, which are found in the Seventh Amendment. Specifically they caused an abridgment in Plaintiffs right to a jury trial, by filing continual requests for judicial notices in all courts of records of events showing that Plaintiff was deprived of his rights of due process, never having the benefit of a jury decide any issues at all regarding Plaintiffs rights to own significant property. They did this with a sense of pride and glee as evidenced in Defendants "Second Supplementary Request for judicial Notice in support of Court-Ordered Status Report of Moving parties Canyon Oaks Estates, L.P., Et Al. Re Pending Vexatious Litigant Motion" filed but not served on December 6, 1999, "Exhibit Z" attached to this Complaint. Plaintiff did not receive his service copy of those papers until December 20, 1999. He did not have, nor was he handed any copies of such documents at the Bankruptcy Court hearing at 2:00 p.m., on December 16, 1999 in court room 1645 of Hon. Erithe A. Smith, Case No. LA 89 27014 WL/ES, 255 East Temple Street, Los Angeles, California. Plaintiff could not object on his own behalf, because of the malicious premeditated and willful failure of Defendants to comply with Bankruptcy Courts Orders to serve such papers on Plaintiff on or before December 6, 1999. All of the above Defendants discriminated against Plaintiff, by withholding their papers blatantly disobeying the Court Order only because Plaintiff was appearing in his capacity as a Private Attorney General, under the State of California Doctrine of self representation, without a lawyer. Plaintiff objected to such discrimination by asking the Court to continue the hearing. The Court refused and silenced Plaintiffs rights to freedom of

speech. It is important to note that by this heinous and hateful *"Nazi Gestapo"*, type abridgment, described in Claim No. 1 and No. 2, which was unfortunately allowed *in a United States* federal court, Plaintiff was intimidated and handicapped by the Court, beyond any reasonable expectation of what is supposed to be an *impartial tribunal*. Plaintiff's right to freedom of speech was abridged in violation of the First Amendment. The scene in the Courtroom was staged to provoke Plaintiff into a reaction of some kind where the two armed guards would jump on him to restrain him physically. Of course, that desired effect by Defendants, did not take place but, by the Court allowing such scurrilous tactics in a federal court, a definite abridgment of the freedom of speech and the freedom to petition the government for a redress of grievances did occur. Plaintiff, requests relief by way of Temporary Restraining Order against that Bankruptcy Court from engaging in any further proceedings, and making any orders in that case, until such time as a hearing is scheduled for a permanent injunction against all Defendants shown in caption to stop them from further discrimination and deprivation of due process rights protected by Title 42 USC Sect's. 1983, 1985 and 1986, and until such time as a jury trial takes place in this Civil Rights Action. Plaintiff seeks damages suffered as a direct and proximate cause of this Claim from all of the Defendants in the caption. Amount of damages shall be according to proof at trial.

This paragraph describes at least three events: a hearing on December 16, an alleged failure to serve papers prior to the hearing, and the filing of an allegedly improper request for judicial notice. In addition, it contains allegations about the state of mind of defendants (apparently all of them)--that they are filled with "pride and glee" and that they intended to provoke Wojciechowski into physical violence at a court hearing. This "paragraph" also makes allegations about the impartiality of a federal judicial officer, although the Bankruptcy Judge in question is not herself named as a defendant. How these various events, allegations of evil intent, and charges of

judicial malfeasance relate to each other is, apparently, left to the reader as an exercise. The specific requirements of Rule 10(b) are meant to guide pleaders so that their papers will conform to the "short and plaint statement" standard of Rule 8(a). Wojciechowski has previously been ordered to pled his complaint with numbered paragraphs that encompass discrete events, and has failed to to so. Accordingly, Wojciechowski is ordered to show cause why his complaint should not be dismissed for failure to comply with the requirements of 10(b).6

3. Rule 11 of the Federal Rules of Civil Procedure

Rule 11 imposes a minimal standard of truthfulness and good faith on litigants and their attorneys. Specifically, it requires that signed pleadings may not be "presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation" and that "the c;laims...therein are warranted by existing law or the establishment of new law." Fed. R. Civ. P. 11(b). Rule 11(c)(1)(B) specifically authorizes the court to issue an order to show cause on its own cause motion, requiring a pleader to demonstrate that it has not violated the provisions of Rule 11.

The filing of the complaint appears to violate Rule 11(b)(1) (forbidding filings brought for improper purpose) and Rule 11(b)(2) (forbidding filings that advance frivolous arguments). Wojciechowski's third successive filing in this court, on substantially similar facts, combined with the numerous filings in other courts (alluded to by the Ninth Circuit in its opinion in the Monterey Action), demonstrates a bad-faith effort to force defendants to expend thousands, if not tens of thousands, of dollars defending against his suits. Moreover, because the complaint appears to make several frivolous claims (as discussed more fully below), it also appears to violate Rule 11(b)(2).

Rule 11 sanctions are expressly limited to monetary sanctions or "directives of a non monetary nature." Rule 11(c)(2). A district court has the inherent power to enter graver sanctions, however, when necessary to deter willful, bad-faith,

and harassing conduct by a litigant. See Chambers v. NASCO, 501 U.S. 32 (1991). In particular, a court has inherent power to dismiss a case outright for such abuses. See id. at 44-45. Accordingly, Wojciechowski must show cause why his complaint should not be dismissed for violations of Rule 11.

4. Rule 12 of the Federal Rules of Civil Procedure

A complaint may be dismissed on the court's own motion pursuant to Rule 12(b)(6) for "failure to state a claim upon which relief can be granted." See Wong v. Bell, 642 F.2d 359 (9th Cir. 1981). Because of the rambling nature of the complaint, it is difficult to ascertain what claims Wojciechowski purports to allege, let alone the merits of such claims. however, the court notes that all of the statutory claims appear to be defective of their face, for the reasons set forth below.

a. Section 1981

Section 1981 guarantees equal treatment on the basis of race. Wojciechowski does not allege that any of the "discrimination" complained of was on account of his race.

b. Section 1983

Section 1983 guarantees protection against those who abuse state office to deprive others of their civil rights. The only "state actor" defendant named by Wojciechowski is Los Angeles County Supervisor Edmund D.Edelman, who is alleged to have accepted a bribe to vote in a manner adverse to the development of property held by the Montevideo Partnership. Compl. Sect. 5. The existence of this conspiracy appears to be proved in Wojciechowski's mind by the fact that the property is now a public park named for Edelman. Compl. Sect. 5. Notably, this fanciful allegation is not even included in the various "Claims for Relief" propounded in the complaint. 7 Therefore, it would appear that Wojciechowski has not alleged

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7. The court does not mean to suggest that inclusion of this allegation in the actual "claims" would be outcome-dispositive. Courts are still free to ignore allegations that are obviously false and delusional.

that any state actors are involved in the conduct giving rise to the Section 1983 claim, and it should therefore be dismissed.

c. Section 1985

Section 1985 is a broadly worded prohibition against private conspiracies to deprive people of their federally protected rights. it was originally passed to give victims of Ku Klux Klan violence a private right of action against their attackers. Claims of Section 1985 violations must allege some sort of class-based animus. See UBCJA v. Scott, 463 U.S. 825 (1983). Furthermore, the usual pleading requirements for a conspiracy claim apply: the pleader must identify the members of the conspiracy by name and indicate how they participated in the conspiracy. **8** See e.g., Boykin v. Bloomsburg University of Pennsylvania, 893 F. Supp. 408 (M.D. Pa. 1995), aff'd 91 F.3d 122 (3d Cir. 1996) (table opinion). Wojciechowski's cause of action for Section 1985 appears to fail both these requirements, and should therefore be dismissed as well.

d. Section 1986

Section 1986 creates a limited remedy against those who fail to prevent harm to others due to Section 1985 conspiracies. Since the Section 1985 claim is woefully deficient, there can be no viable Section 1986 claim either.

e. The RICO Claim

Although the RICO action was dismissed with prejudice, Wojciechowski attempts to incorporate the RICO claim into his complaint by alleging that the alleged RICO conspiracy violated Sections 1983, 1985, and 1986. The court will not attempt to parse the RICO allegations (which are adopted wholesale from plaintiff's pleadings in the now-dismissed RICO case). Instead, the court simply notes that the matter would appear to be res judicata and/or a matter over which the court is divested of jurisdiction because of the pending appeal before the Ninth

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8. Wojciechowski's previous experience with the RICO action apprised him of the need to be specific when alleging a

conspiracy.Circuit. In either case, it is obvious that Wojciechowski cannot allege a RICO conspiracy as a predicate violation of any of the statutes he cites.

5. Civil Local Rule 3-3(c)

Civil Local Rule 3-3(c) forbids a party from successively filing the same action in order to have a choice of judges. The Rule specifically authorizes sanctions,. The court notes that Wojciechowski has chosen to replead his RICO cause of action (masquerading now as a Civil Rights claim) against many of the same defendants, Accordingly, Wojciechowski must show cause why his complaint should not be dismissed with prejudice as a sanction for violating Civil Local Rule 3-3(c).

C. FUTURE FILINGS

Finally, the court is concerned that dismissal with prejudice will not be a fully effective remedy against Wojciechowski. This is third successive action in this court; other proceedings are taking place in the Central District, the Ninth Circuit, and even the Supreme Court of the United States. The court also notes that Wojciechowski's continued efforts to relitigate the same issues have already drawn a sharp rebuke from the Ninth Circuit, which held that he was in contempt of the Bankruptcy Court for continuing to file these lawsuits. **9**

This would therefore appear top be the rare case justifying some limitation of future filings before this court. See DeLong v. Hennessey, 912 F.2d 1144 (9th Cir. 1990). Specifically, the court finds that plaintiff has filed three frivolous complaints in this court (including the instant action), and that he shows no signs of abating his litigious and contumacious

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9. The court also notes the numerous and patently frivolous filings by Wojciechowski that are described in the "Court-Ordered Status Report" submitted to the court by parties to the bankruptcy proceedings. Wojciechowski attached this status report as Exhibit X to his complaint in this matter.

conduct. The court notes the proceedings currently underway in the Central District, and the comments of the Ninth Circuit in regard to Wojciechowski's continued contempt of the Central District in filing such lawsuits.

The court therefore orders Wojciechowski to show cause why he should not be required to pay the clerk of the court a contempt bond of $500 on each occasion in the future that he files a lawsuit in the Northern District of California that (1) seeks relief from any of the defendants named in this suit; and (2) arises from or is relates to the winding up of the Montevideo Partnership and its bankruptcy. The $500 will be held by the court until the court makes a finding that the complaint is not frivolous. The contempt bond requirement shall not apply to any complaint that alleges imminent grave bodily harm or death. If the court finds that the complaint is frivolous, the court shall retain the $500 bond, in addition to any other sanctions that it may order. The court believes that this is a narrowly tailored sanction that protects the victims of Wojciechowski's litigiousness and preserves judicial resources, but still respects Wojciechowski's right of access to the courts.

III. ORDER

For the foregoing reasons,the court finds that this case is related to the Monterey and RICO actions (C-98-21018-RMW and C-98-21139-RMW) as defined by Civil L.R. 3-12(b). Pursuant to Civil L.R. 3-12(e), the Clerk of the Court is ordered to reassign this action to the undersigned court. Counsel are instructed that all future filings are to bear the initials RMW immediately after the case number. All matters presently scheduled for hearing the reassigned case are vacated and must be re noticed for hearing before this court.

The court further orders Wojciechowski to show cause why his complaint should not be dismissed with prejudice pursuant to Rules 8, 10, 11 and 12 of the Federal Rules of Civil Procedure and Civil Local Rule 3-3(c) and why he should not be subject to the contempt bond procedure set forth in this order.

Wojciechowski shall respond to this order by filing a

memorandum of points and authorities of not more than 20 double-spaced pages otherwise conforming to the local rules for motions by Friday, February 18, 2000. This memorandum shall be captioned "Response to Court's Order to Show Cause". He may file affidavits or declarations together with his response, but taken together, those affidavits or declarations must no exceed 10 double-spaced pages, and may not advance any legal argument. **10**

The other parties to this action may file response papers no later than Friday, March 3, 2000. The response papers are held to the same page lengths. Wojciechowski may file one set of reply papers, to be captioned "Reply to Defendants' Responses to Plaintiff's Response to the Court's Order to Show Cause." Those papers shall not exceed 20 double-spaced pages, including affidavits and/or declarations, and must be filed no later than Friday, March 10, 2000.

The court will hold a hearing on the order to show cause Friday, March 17, 2000, at its regular law and motion calendar, which begins promptly at 9:00 a.m. If Wojciechowski so requests, the court will vacate the hearing and submit this matter on this papers, or continue the hearing once (and for no more that a month) to accommodate his scheduling needs. **11** Such requests must be made with notice to all parties and should be filed at least three weeks before the hearing date. All proceedings in this matter are stayed until the court rules on the order to show cause. Specifically, defendants are excused

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10. The court allows affidavits and declarations for two reasons: (1) so that Wojciechowski may offer evidentiary support for the seemingly frivolous claims; and (2) so that Wojciechowski may demonstrate that his finances make the $500 contempt bond requirement prohibitive.

11. Any continuance request and/or request to vacate the hearing and have the court rule on the papers must be submitted in compliance with the Local Rules and may not exceed two pages. from any obligation to answer or otherwise

respond to the complaint.

No proof of service have yet been filed. The court therefore directs Wojciechowski to serve all defendants with a copy of this order at the same time that he serves them with the complaint and summons. If Wojciechowski has already served defendants, he shall serve them with a copy of this order by first-class mail no later than five days of receipt of this order. Even if Wojciechowski delays serving defendants with the complaint and/or summons, he must ensure that all defendants have received a copy of this order no later than February 11, 2000. Wojciechowski's response and reply papers must also be served on all parties.

Finally, Wojciechowski is directed not to file any motions for leave to file a motion for reconsideration, or any other motions seeking to vacate, reconsider, alter, or amend, this order, or to certify it for interlocutory appeal. Any objections to the legal propriety of this order should be raised in the "Response to the Court's Order to Show Cause" and/or the "Reply to Defendants' Responses to Plaintiff's Response to the Court's Order to Show Cause."

DATED: 1/20/2000

"S"/_____
RONALD M. WHYTE
United States District Judge